



Paper No. 8

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MAY 23 2002

OFFICE OF PETITIONS

ON PETITION

In re Application of
Hines
Application No. 09/888,061
Filed: June 21, 2001
Attorney Docket No. 10488/10:1
For: EVOLUTION DIAGRAMS FOR DEBUGGING
DISTRIBUTED EMBEDDED SOFTWARE
APPLICATIONS

This is a decision on the petition filed January 18, 2002, requesting, in effect, that a "Notice Of Incomplete Reply" as pertaining to Figures 41A, 41B, 41C, and 41D, mailed November 30, 2001, in the above-identified application be withdrawn.

The application was filed on June 21, 2001. However, on August 21, 2001, the Office of Initial Patent Examination mailed a "Notice to File Missing Parts of Nonprovisional Application" stating that the application had been accorded a filing date of June 21, 2001, and requesting *inter alia*, that applicant submit substitute drawings with proper margins.

Petitioner submitted substitute drawings on October 19, 2001. The Office mailed a "Notice of Incomplete Reply" on November 30, 2001 advising applicant that Figures 41A, 41B, 41C and 41D described in the specification appeared to have been omitted and requesting substitute drawings in compliance with 37 CFR 1.84 because of the format/labeling of the figures on sheet 41 was not acceptable.

In response, the present petition was filed. Petitioner explains that Figures 41A, 41B, 41C, and 41D were not missing on June 21, 2001. Instead, the application included a sheet of drawings containing 4 figures labeled "Fig. 41" and that Fig. 41 is actually figures 41A, 41B, 41C, and 41D described in the specification. The petition is accompanied by a sheet of drawing showing the correct figure labels.

It is obvious from the petition and a search of the application file that no drawing was actually missing on June 21, 2001. Rather, the sheet of drawing containing Figs. 41A, 41B, 41C, and 41D was simply mislabeled as a result of appellant's filing error. However, the "Notice Of Incomplete Reply" mailed November 30, 2001, was correct in stating that Figure 41A, 41B, 41C, and 41D described in the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed and will not be withdrawn.

The petition is dismissed.

Since the present petition was not necessitated by any error on the part of the Office, the \$130.00 petition fee will not be refunded. The \$200.00 extension of time fee will be refunded to deposit account no. 19-4455 because the Notice of Incomplete Reply, mailed November 30, 2001, set a new requirement for petitioner. A new requirement should have triggered a new period for reply.

A preliminary amendment adding the sheet of drawing containing Figures 41A, 41B, 41C, and

41D should be filed prior to first action on the merits.

The application is being returned to the Office Initial Patent Examination Division for further processing with a filing date of June 21, 2001, using the 50 substitute sheets of drawings filed on October 19, 2001.

Telephone inquiries should be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.



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